

Serial No. 10/811,630
60282-032REMARKS

Applicant wishes to thank the Examiner for the detailed remarks; the allowance of claims 35-39; and the allowability of claims 22, 23, and 30-33. Independent claim 1 has been amended to include the allowable limitations from claim 22 and the intervening claims 21 such that amended claim 1 is now properly allowable. Claims 3-22, 24, 25, and 40 are cancelled. New claims 41-47 are presented. Accordingly, claims 1, 2, 23, 26-30, and 41-47 are pending.

Claims 21, 24, and 25 were rejected under 35 U.S.C. §103 as being unpatentable over *Gardin et al* in view of *Van Den Berg et al*. Claims 1, 2, 26-29, 34 and 40 were rejected under 35 U.S.C. §103 as being unpatentable over *Stachowiak* in view of *Gardin et al*. *Gardin* discloses a high pressure press for high pressure treatment of substances, for example, food stuffs, pharmaceuticals, and cosmetic preparations. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). *Gardin* is classified in classification 92 EXPANSIBLE CHAMBER DEVICES, specifically subclass 86 with removable conduit for liquid seepage from expandible chamber. Such classification is wholly unrelated to the present invention and suggests that the *Gardin* reference is non-analogous. Moreover, *Gardin* is not in Applicant's field of endeavor and is not reasonably pertinent to the particular problem that the Applicant has solved. One would never look to the field of high pressure presses or the treatment of substances such as food stuffs, pharmaceuticals, and cosmetic preparations for systems which perform water jetting operations at approximately 50,000 psi. The dynamic issues associated with fluid jetting as opposed to the relatively static issues associated with a press are simply not reasonably pertinent to each other. *Gardin* is not analogous art and all the rejections which utilize *Gardin* are therefore improper.

Claims 24 and 25 were rejected under 35 USC §103 as being unpatentable over *Gardin et al* in view of *Vandenberg et al*. Applicant traverses this rejection as there is absolutely no teaching, suggestion, or motivation to modify *Gardin* in view of *Vanderberg* as proposed. *Gardin* is related to a high pressure press for high pressure treatment of substances, for example,

Serial No. 10/811,630
60282-032

foodstuffs, pharmaceuticals, and cosmetic preparations. *Vandenberg* discloses a cylindrical pressure vessel that can be filled with a fluid in order to exert an iso static pressure on for example, foodstuffs, pharmaceuticals, cosmetic preparations, and the like. The Examiner admits that *Gardin* does not disclose "a seal cartridge assembly pressed into a frame; or that a packing assembly is located about the plunger and has inner and outer diameter wedge rings, and non-metallic packing rings having a square cross-section." The Examiner then asserts that *Gardin* and *Vanderberg et al* are both in the same field of endeavor, and the purpose disclosed by *Vanderberg et al* would have been recognized in the pertinent art of *Gardin et al.* As such, the Examiner then further asserts that "it would have been obvious at the time the invention was made to one having ordinary skill in the art to press a seal cartridge assembly, a non-metallic packing ring have a square cross-section, into a frame plate attached to the pressure assembly of *Gardin et al* as taught by *Vandenberg et al.* for the purpose of sealing between the plunger and the pressure assembly."

The goal of examination is to clearly articulate any rejection early in the prosecution process so that Applicant has the opportunity to provide evidence of patentability and other reply completely at the earliest opportunity. [MPEP 706.] Applicant cannot properly respond to this rejection as there seems to be no relationship whatsoever between the cited references. *Gardin* is a press and *Vandenberg* is a storage device. As discussed above, *Gardin* is non-analogous art and therefore does not support the proposed combination. Furthermore, it appears the Examiner is selecting disparate components from the cited references utilizing Applicant's invention as a blue print. This is impermissible usage of hindsight in an attempt to recreate Applicant's device. Accordingly, the claims are properly allowable.

Even if *Gardin* is considered analogous art, the combination is improper or, in the alternative, fails to disclose specific limitations in Applicant's amended claims.

Claims 26-29 and 34 were rejected under 35 USC §103 as being unpatentable over *Stachowiak* in view of *Gardin et al.* Applicant respectfully traverses these rejections as there is absolutely no teaching, suggestion, or motivation to modify *Stachowiak* in view of *Gardin*. As discussed above, *Gardin* is non-analogous art and the claims are properly allowable for this reason alone.

Serial No. 10/811,630
60282-032

Stachowiak is, at least, a high pressure reciprocating pump. *Stachowiak* discloses:

A cylindrical stuffing box 32 which is slidably received and contained within each bore 20 of the flange plate 13. Each stuffing box 32 has a circumferential flange 33 at one end which has a flat surface 34 along one side corresponding to the flat surface 22 of the counter-bore 21 in the flange plate 13. The stuffing box flange 33 retains the stuffing box 32 and the flange plate 13 during operation with the flat 34 preventing stuffing box 32 from rotating.

[Col. 4, lines 60-68.]

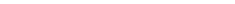
New claims 41-47 recite further features of the present invention which are neither disclosed nor suggested by the cited references and are thus properly allowable.

Please charge \$400 to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, for 4 claims in excess of 20 and one additional independent claim. If any additional fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.



DAVID L. WISZ
Registration No. 46,350
Attorneys for Applicant
400 West Maple, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Dated: June 21, 2006

N:\Clients\NLB CORP\IP00032\PATENT\NLBAmd032-03-27-2006-.doc